STATE OF CALIFORNIA GAVIN NEWSOM, *Governor*

PUBLIC UTILITIES COMMISSION

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TO PARTIES OF RECORD IN APPLICATION 19-10-001:

This is the proposed decision of Administrative Law Judge Scarlett Liang-Uejio. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's September 10, 2020 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, ex parte communications are prohibited pursuant to Rule 8.2(c)(4)(B).

/s/ ANNE E. SIMON
Anne E. Simon
Chief Administrative Law Judge

AES:avs

Attachment

Decision **PROPOSED DECISION OF LIANG-UEJIO (Mailed 8/7/2020)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Approval of Its Carbon-Free Surplus Energy Transaction with Bonneville Power Administration.	Application 19-10-001

DECISION DENYING TRANSACTION

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DECISION DENYING TRANSACTION

Summary

This decision denies the application of Southern California Edison Company for approval of a surplus energy transaction with Bonneville Power Administration, and similarly denies other related relief. The Commission finds the proposed transaction to be a standard surplus power purchase contract and not an inter-regional energy efficiency transfer. Moreover, the purchased power carries an emission factor, and is not carbon-free. Finally, the contract does not provide sufficient policy benefits to justify its costs.

This proceeding is closed.

1. Background

On October 1, 2019, Southern California Edison Company (SCE or Applicant) filed Application (A.) 19-10-001 (Application) requesting approval of SCE's contract with Bonneville Power Administration (BPA). The contract is for the purchase of five megawatts (MW) of surplus electricity delivered around the clock (Transaction). The Application is to extend the initial two-year term of the contract for an additional year. SCE describes the surplus electricity as carbon-free hydroelectric power made available through incremental energy efficiency (or EE) savings in BPA's service area.

The Application is supported by the Natural Resources Defense Council (NRDC). Six parties oppose the Application and recommend the Application be denied. These parties are: (1) the Commission's Public Advocates Office (Cal Advocates), (2) The Utility Reform Network (TURN), (3) Clean Power Alliance of Southern California (CPA), (4) California Choice Energy Authority (CalChoice), (5) Direct Access Customer Coalition (DACC), and (6) the Alliance for Retail Energy Markets (AReM).

A prehearing conference was held on December 5, 2019, to discuss the issues, determine the need for hearing, and address the schedule. The assigned Commissioner issued a Scoping Memo and Ruling (Scoping Memo) on December 20, 2019. The Scoping Memo confirmed the preliminary determinations in Resolution ALJ 176-3448[1] and scheduled evidentiary hearings for April 13-14, 2020. On March 24, 2020, the assigned Administrative Law Judge (ALJ) issued two rulings: (1) taking the scheduled evidentiary hearing off calendar and (2) modifying the proceeding schedule and directing items for a Joint Case Management Statement (JCMS). On April 20, 2020, parties filed a JCMS providing that they had agreed to waive evidentiary hearings. On April 24, 2020, the ALJ issued a ruling adopting a final proceeding schedule (final schedule) and there were no evidentiary hearings. The April 24, 2020 ALJ Ruling received parties' prepared direct and rebuttal testimony into the record.[2] Official Notice was taken by the May 22, 2020 ALJ Ruling of BPA's public document titled "Fact Sheet: The carbon-free footprint of BPA's hydropower supply." The final schedule allowed the active parties to serve surrebuttal testimony and file motions for admission of additional evidence. Subsequently, the ALJ issued a ruling on May 28, 2020 receiving additional evidence.[3] Opening and reply briefs were filed by SCE, NRDC, Cal Advocates, TURN, jointly by

[1] Resolution ALJ 176-3448 preliminarily categorized the proceeding as ratesetting with evidentiary hearings required.

[2] Served by SCE, NRDC, Cal Advocates, and TURN.

[3] The additional evidence includes SCE's and TURN's surrebuttal testimony and parties' additional discoveries. The Updated Exhibit Index is in Attachment A of the May 28, 2020 ALJ Ruling. In accordance of Rule 13.7 (f), all exhibits including prepared testimony and additional evidence shall be submitted electronically as "supporting documents" and can be found in the Commission's Electronic Filing System at https://docs.cpuc.ca.gov/EFileSearchForm.aspx.

CPA/CalChoice, and jointly by DACC/AReM on June 12, 2020 and June 29, 2020, respectively.

2. SCE's Request and Parties' Positions

SCE requests Commission approval of the contract as "a 'proof of concept' Transaction to test a model of conservation transfer through the purchase in California of surplus carbon-free power."[4] SCE asserts that if approved, this Transaction could lead to a broader market in California for clean power made possible through achieving incremental energy efficiency in the Pacific Northwest and other regions.[5] SCE asserts that this could help California meet its ambitious carbon-reduction goals, pursuant to Senate Bill (SB) 100, without increasing emissions in the Pacific Northwest, as required by California law.[6] SCE anticipates that this "proof of concept" will provide valuable learnings about its feasibility and scalability for achieving additional carbon-free power for California through similar transactions.[7] Additionally, SCE requests authorization of ratepayer funding for the Contract costs, which include both an

[4] Application at 2.

[5] "Pacific Northwest" refers to "(1) the region consisting of the States of Oregon and Washington, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming within the Columbia drainage basin and of the State of Idaho as the Secretary may determine to be within the marketing area of the Federal Columbia River power system, and (2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a rural electric cooperative served by the Administrator on December 5, 1980, which has a distribution system from which it serves both within and without said region." (16 U.S. Code § 837 (b).)

[6] Application at 2 to 3. Also see Senate Bill (SB) 100 (100 Percent Clean Energy Act of 2018), codified in Public Utilities (Pub. Util.) Code §§ 399.11, 399.15, 399.30, and 454.53.

[7] *Id*. at 3 to 4.

energy price and an annual transaction fee (annual fee).[8] The annual fee includes recovery of an estimated $2.989 million of BPA's EE Program Costs from both SCE's bundled and unbundled service customers through its Public Purpose Program Charge (PPPC).

The Transaction and requested relief are summarized below.

2.1.1. Transaction

SCE and BPA negotiated and entered into a standard Western Systems Power Pool (WSPP) Agreement for the sale of electricity. The Agreement is amended by a Confirmation Agreement (as amended, the "Contract"). The Contract is for BPA to sell, and SCE to buy, five megawatts (MW) of pre-scheduled Asset Control Supplier (ACS)[9] power scheduled every hour of the year for up to three years, delivered to the Nevada-Oregon Border, and available for sale by SCE into the California Independent System Operator (CAISO). The contract years are:

- Year 1: February 1, 2019 to January 31, 2020
- Year 2: February 1, 2020 to January 31, 2021
- Year 3: February 1, 2021 to January 31, 2022

Years 1 and 2 of the Contract are not before the Commission for review and approval in this Application.[10] The Contract provides, however, that the third year of the Transaction occurs only if the Commission approves this

[8] SCE refers to this in its Application as the Clean Power Fee. An annual premium for the full three-year term of the Contract if the Contract's two-year initial term is extended for an additional year.

[9] An asset-controlling supplier (ACS) is a specific type of electric power entity approved and registered by the California Air Resources Board (CARB) under its Regulation for the Mandatory Reporting of Greenhouse Gas Emissions.

[10] Costs for Years 1 and 2 are subject to Commission review in SCE's Energy Resource Recovery Account (ERRA) proceedings.

Application no later than before the commencement of Year 3, and does so without modifications or conditions unacceptable to SCE.[11]

Source of Power: SCE asserts that the key feature of the Transaction is the source of BPA's surplus carbon-free power. The surplus power, according to SCE, derives from incremental EE measures installed by BPA in fiscal years 2016 and 2017.[12] SCE states that while the Transaction allows SCE to test an innovative approach to GHG reduction it is also important, according to SCE, "to emphasize that this Transaction is not intended to affect or be counted toward SCE's in-state energy efficiency goals or achievements."[13]

Price: The Contract price of the delivered power is the Reference Price, which is the sum of the energy price and the annual fee. SCE only pays the energy price for Years 1 and 2. If the Commission approves the Application, SCE will pay the annual fees for Years 1 and 2 in early 2021 (*i.e.*, in Year 3). In addition, SCE will pay the Year 3 Reference Price: the energy price for energy purchased in Year 3, along with the annual fee for Year 3 at the end of Year 3.

The energy prices for Years 1-3 are negotiated between BPA and SCE. It represents their agree-upon forecast of the market prices for energy delivered to the Nevada-Oregon Border charged in dollars per megawatt-hour ($/MWh).[14]

The Reference Price has four components, which SCE describes as: (1) EE Program Cost, (2) Priority Firm Power (PF) Equivalent Rate, (3) Transmission

[11] SCE Direct Testimony (Public Version) (Exhibit SCE-01) at 3-4.

[12] *Id*. at 1-2

[13] *Id*. at 2.

[14] The Contract's energy prices are confidential.

Cost, and (4) ACS Value.[15] The annual fee, which is the Reference Price minus the energy price, is $34.65/MWh in Year 1, $36.55/MWh in Year 2, and will be based on the value of the actual Reference Price for Year 3.[16]

2.1.2. Requested Relief

SCE requests that the Commission:

a. Approve the Contract without modifications by no later than December 31, 2020.

b. Authorize SCE to establish a Carbon-Free Surplus Energy Product Balancing Account to record costs and revenues associated with the Contract.

c. Authorize SCE to recover an estimated $2.989 million in EE Program Costs associated with the Contract through SCE's PPPC.

d. Authorize SCE to recover the remaining costs associated with the Contract from SCE's bundled service customers through revenue requirements and rates established in SCE's annual ERRA forecast proceedings through operation of SCE's ERRA Balancing Account (which is reviewed in SCE's annual ERRA Review proceedings).

2.1.3. Parties' Positions

NRDC supports the Application. In fact, NRDC, was instrumental in developing the "conservation transfer" concept and, together with BPA, brought

[15] SCE's Direct Testimony (Exhibit SCE-01) at 6 to 8. The EE Program Cost is to reimburse BPA the pro-rata shares of its 2015-2017 energy efficiency program costs. The PF Equivalent Rate is the tariff rate for energy and capacity sold to BPA's statutory preference customers. The Transmission Cost is for transportation to the point of delivery of the power. The ACS Value is a split between SCE and BPA of the ACS market premium above non-ACS power, which is confidential. Therefore, the Contract's Reference Price, which is the sum of these four components, is confidential.

[16] SCE also states that "BPA will calculate a revised Reference Price each time it adjusts its [tariffed] rates during the Term of the Transaction." The Reference Price is the sum of the energy price and the annual fee. The tariffed rates are those for its preference customers and transmission costs. *(Id.* at 6-8).

the proposal to SCE. The essence of the concept is for California to fund BPA's energy efficiency programs and thereby create more BPA surplus power to sell to California.

Other parties recommend Commission rejection of the Application and identify several reasons. Cal Advocates, TURN, and others argue that SCE has failed to show that:

a. the Transaction is a reasonable "proof of concept;"
b. the Transaction is carbon-free and results from surplus power;
c. the Transaction is permitted under Federal law;
d. the Transaction is necessary to meet SCE's obligations (*e.g.*, capacity, energy, reliability, energy efficiency);
e. the costs are reasonable or that the Transaction is cost-effective; and
f. there is any merit to Commission approval of a contract that will ultimately cost ratepayers many millions of dollars in above market costs while achieving none of its stated goals.

If the application is approved, most opponents object to Applicant's proposed cost allocation. For example, TURN states all above-market costs should be recovered through the PPPC. In contrast, CPA, CalChoice, DACC and AReM assert that no Contract costs should be recovered through PPPC and all costs should be recovered from bundled service customers via SCE's ERRA.

3. Issues Before the Commission

The main issue before the Commission is whether to approve the Contract, which extends the initial term of two years to a third year. In doing so we first consider whether the Contract is just and reasonable. We determine it is not and deny the Application based on both policy and cost considerations. Other issues

related to SCE's remaining requested relief are therefore moot and not addressed in this decision.

4. Standard of Review

BPA is a federal power marketing agency subject to federal law with oversight by the Federal Energy Regulatory Commission (FERC). SCE is a privately owned public utility subject to federal and state laws, including California's GHG emission rules, with oversight by this Commission. This decision reviews the Contract and SCE's representation of the Transaction with relevant federal and state laws and rules. SCE proposes the Transaction on the basis that the Transaction provides significant public policy benefits, not on the basis of need or cost-effectiveness. This decision examines each of SCE's key claimed policy benefits and determines whether the costs associated with this Application are justified in order to achieve the claimed policy benefits.

5. Discussion

The Commission supports the on-going efforts by all California utilities, including SCE, in advancing the State's climate goals pursuant to SB 100. While the ideas in this Application are potentially innovative and interesting, the proposed transaction does not achieve a transfer of carbon-free electricity, and therefore must be denied.

We deny the Application based on both policy and cost considerations. In particular, we deny the Application because we do not agree with SCE's representation of the Transaction as "an inter-regional energy efficiency transfer." The Transaction is a standard purchase of surplus power from BPA's system portfolio. Further, SCE's characterization of the electricity as surplus carbon-free hydroelectric power is both false and inconsistent with the Contract.

Finally, the proposed "proof of concept" does not produce sufficient policy benefits to justify the costs.

5.1. Policy Considerations

SCE proposes the Transaction as a "proof of concept" to advance the policy objective, as set in SB 100, to achieve 100 percent carbon-free energy in California by 2045.[17] SCE asserts that the Transaction provides significant public policy benefits toward achieving the carbon-free goal, which justifies ratepayer funding of the additional annual fees.[18] In the following sections, we examine that assertion and find the Transaction does not produce the significant policy benefits as SCE claims.

5.1.1. The Transaction is not "an Energy Efficiency Transfer"

We do not agree with SCE's representation of the Transaction as "an inter-regional energy efficiency transfer" and find that description misleading. The Transaction has not, and will not result in the transfer of energy efficiency into California.

As described in Section 2.1.1, the Transaction provides around the clock baseload and pre-scheduled power to California. In contrast, the demand reduction caused by energy efficiency measures is not equivalent to around the clock baseload no matter if it is "supplied" by individual energy efficiency measures (such as lighting or cooling) or as a portfolio of energy efficiency resources, and no party claimed otherwise. SCE agrees when it states: "actual energy efficiency cannot be directly transfer into California…If the Commission were to require the parties to literally transfer energy efficiency from the Pacific

[17] Pub. Util. Code § 454.53. Also, Application at 3.

[18] SCE's Reply Brief at 3 to 14.

Northwest to California, then an inter-regional energy efficiency market would not be possible."[19] That is, SCE agrees that it cannot transfer energy efficiency as an around the clock resource, as proposed in the Application. Rather, energy efficiency may allow generation from another resource but, to the extent it does, the actual characteristics of that resource must be examined.

SCE and NRDC provide further explanations for the proposed "inter-regional energy efficiency." In particular, NRDC's testimony cited by SCE explains that BPA faces statutory restrictions that limit BPA's ability to sell surplus power to California.[20] In addition to these legal barriers, SCE states there are practical and economic barriers. For example, while achieving incremental energy efficiency savings beyond BPA's annual targets could free more surplus power for sale to California, SCE states BPA's current ratemaking policy disincentivizes BPA's efforts in achieving those incremental energy efficiency savings.[21] According to SCE:

> BPA has not been compensated for its past energy efficiency efforts because BPA's revenue is not decoupled from its power sales, and therefore energy efficiency achievement in BPA's service area creates lost revenues for both BPA and its retail utility customers. The [annual fee] serves to overcome this disincentive for BPA to achieve incremental energy efficiency, but SCE will not pay the [annual fee] to BPA unless and until the Commission approves the Application.[22]

We understand SCE and NRDC's goal and the Commission welcomes creative ideas to develop zero-carbon power in other regions to sell to California

[19] SCE's Reply Brief at 12 to 13.

[20] SCE's Opening Brief at 16 and its Reply Brief at 2. Also, NRDC's Direct Testimony at 3 to 4.

[21] *Id.* at 2 and 7.

[22] *Id.* at 13 to 14.

when based on mutual benefits between seller and buyer. However, we cannot approve the proposed "proof of concept" of "inter-regional energy efficiency transfer" because that description does not accurately represent the Transaction. Energy Efficiency is carbon-free.[23] As discussed in the section below, this Transaction has a non-zero carbon emission factor. Therefore, the Transaction cannot be an energy efficiency transfer. Rather, it is a devise to resolve BPA's ratemaking issue and to compensate a federal agency for its energy efficiency programs by charging ratepayers in California. We think a preferred approach would be for BPA to resolve its ratemaking constraints.

In fact, BPA states it "understands this transaction as a 'proof-of-concept' to test regulatory acceptance of this product."[24] We decline to approve this test; our acceptance must be based on transactions that are accurately represented and provide mutual benefits consistent with law and California policy. As explained more below, this is a standard sale of BPA surplus power including required statutory provisions for reduction or withdrawal of energy upon 60 days' notice if the electricity is needed by BPA for its customers. The only unique element of this Transaction is that it is at a premium price (i.e., the annual fee, also called the Clean Power Fee by SCE, and the Clean Energy Premium by NRDC).[25] We agree with Cal Advocates that:

> In effect, this would be a transfer of ratepayer funds from SCE's customers out of California to a federal agency responsible for managing resources located in another state, with no benefits accruing in California, except for SCE's ability to get the Commission to approve costs that do not benefit SCE's customers. Thus, if the purpose of the "proof of

[23] SCE's Reply Brief at 21 to 22. NRDC Rebuttal Testimony (Exhibit NRDC-02) at 2.

[24] SCE Testimony (Exhibit SCE-01), Appendix B, at B-3.

[25] NRDC Rebuttal Testimony (Exhibit NRDC-02) at 6.

> concept" is to test regulatory acceptance, it is wasteful, circular, and unjust to ratepayers. This kind of "test" should not be encouraged.[26]

NRDC testifies that since 1980 BPA, the Regional Council, and other Pacific Northwest utilities have compiled an energy efficiency record that is the envy of most other states. NRDC states the cumulative savings now exceed 6,000 average megawatts (aMW), making energy efficiency the region's second largest resource after hydropower. NRDC also testifies that it has identified more than 4,000 aMW of untapped energy efficiency across the Pacific Northwest.[27]

Assuming energy efficiency has been achieved in an economic order, the least expensive energy efficiency resources have already been developed. There is no evidence regarding the cost and cost-effectiveness of developing the next 4,000 aMW, nor at what premium price the Pacific Northwest would seek to charge to sell it to California.

Even if this "proof of concept" as presented here has merit, which it does not, Cal Advocates correctly points out that the State of Washington has its own legislation to be GHG-free by 2045.[28] Neither SCE nor NRDC show that the Northwest Power Planning Council, BPA or anyone else forecast so much inexpensive undeveloped energy efficiency in the Pacific Northwest that the

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[26] Cal Advocates Direct Testimony (Exhibit PA-01) at 1-9.

[27] NRDC Direct Testimony (Exhibit NRDC-01) at 3 to 5. An average megawatt (aMW) is a measure of energy equivalent to one megawatt of electricity provided around the clock over a year (8,760 MWh) (Exhibit NRDC-01 at 1).

We note that NRDC's testimony (Footnote 13) references to a published article by the Northwest Power and Conservation Council, which discussed the abundance of Pacific Northwest energy efficiency resources as well as the uncertainty pertaining to future EE resource availability.

[28] Cal Advocates Reply Brief at 9.

state of Washington can meet its own GHG-free goals and still have economic surplus to sell to California. Further, as explained more below, even if Pacific Northwest energy efficiency can be developed in the future there is no evidence that the additional energy efficiency, also needed in that region, can be developed with the same Resource Adequacy (RA)[29] value to California at a lower price than it can be developed in California.

5.1.2. The Transaction is not Carbon-Free

Similarly, for the following three reasons we find SCE's claim that the Transaction as carbon-free power is false.[30]

First, as SCE acknowledges, the Contract is a standard Western Systems Power Pool (WSPP) Agreement, which is "routinely used by SCE and other municipal/public utilities across the western energy markets.[31]" It is amended by the Confirmation Agreement. SCE describes the Confirmation Agreement as including "the relevant terms related to the conservation transfer [as] set forth in Exhibit SCE-01-C, Appendix A." Those terms are confidential but, for the reasons explained above, the Transaction is not a transfer of energy efficiency conservation and it cannot be.

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[29] The Commission adopted a Resource Adequacy (RA) policy framework (Public Utilities Code§ 380) in 2004 in order to ensure the reliability of electric service in California. The Commission established RA obligations applicable to all Load Serving Entities (LSEs) within the Commission's jurisdiction, including investor owned utilities (IOUs), energy service providers (ESPs), and community choice aggregators (CCA). The Commission's RA program now contains three distinct requirements: System RA requirements (effective June 1, 2006), Local RA requirements (effective January 1, 2007) and Flexible RA requirements (effective January 1, 2015). (https://www.cpuc.ca.gov/General.aspx?id=6307)

[30] TURN points out that "[t]here are at least 39 use of the phrase 'carbon free' to describe the [Transaction] in SCE's direct testimony."(TURN's Opening Brief at 23 to 24)

[31] SCE's Direct Testimony (Public Version) (Exhibit SCE-01) at 3.

Rather, the Contract power is sourced from BPA's ACS system portfolio.[32] BPA's ACS portfolio is largely hydroelectric power but includes nuclear and market purchases.[33] As TURN correctly points out, BPA's ACS power is not attributed to individual resources. The entire federal system, including market purchases, is treated as a single resource. BPA uses these purchases to balance resources and meet its customers' demands beyond what the federal system can provide. SCE acknowledges that 3-12 percent of BPA's annual fuel mix comes from market purchases that may not be carbon-free.[34] As a result, the market purchased power has carbon emissions.[35] The California Air Resource Board (CARB) assigns an emissions factor to BPA ACS power. The current emission factor is 0.0117 metric tons (MT) /MWh[36] and, as shown by TURN, has varied over the past decade from 0.0117 to 0.0856 MT/MWh.[37] The variation can occur due to many factors including weather (*e.g.*, amounts of water for the hydro system), availability of the nuclear resource, fish flow needs, and increases or decreases in Pacific Northwest demand.

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[32] SCE's Direct Testimony (Confidential Version) (Exhibit SCE-01-C), Appendix A. SCE declares that the Contract summaries are public information including counterparty, resource type, location, capacity, expected deliveries, delivery point, length of contract and online date. SCE publicly refers to the BPA product sold under the Contract as "ACS power" (SCE's Opening Brief at 19). Also, TURN's Opening Brief at 11 and 23 to 24.

[33] These market purchases include energy generated by GHG-emitting resources such as coal, natural gas, biomass, and others.

[34] SCE's Reply Brief at 23.

[35] Fact Sheet, The Carbon-Free Footprint of BPA's Hydropower Supply, January 2019.

(https://www.bpa.gov/news/pubs/FactSheets/fs-201901-The-carbon-free-footprint-of-BPA-hydropower-supply.PDF)

[36] Carbon Dioxide equivalent.

(https://ww2.arb.ca.gov/mrr-acs)

[37] TURN's Opening Brief at 25.

Second, as Cal Advocates correctly states, the Transaction will incur a GHG obligation under California's Cap-and-Trade Program. Therefore, as presented in this Application, it neither supports nor substantially furthers California climate goals pursuant to SB 100.[38]

Third, while SCE characterizes the Transaction as carbon-free throughout this Application including the caption, SCE also states: "In delivering around the clock, nearly carbon-free power, the Contract reduces GHG emissions in California..."[39] (Emphasis added.) The Contract cannot produce both carbon-free and nearly carbon-free power. The fact that 3-12 percent of BPA system resources are market purchases (potentially including coal, natural gas, biomass and other GHG-emitting resources) shows resources at the last of the loading order (used to generate energy for the Contract) are not carbon-free. Similarly, the CARB non-zero emissions factor demonstrates that it is not carbon-free.

SCE responds that instead of focusing on the big picture, parties' arguments primarily focus on minor details that reflect misunderstanding or mischaracterizing of the Contract and law.[40] SCE argues that "the Contract is sourced using the cleanest system power on the western grid" and parties "attempt to create a material issue out of the *de minimis* carbon emission factor assigned to BPA's ACS power.[41]" We disagree. The carbon emission factor assigned to BPA's ACS power may be low, but it is not zero. SCE's characterization of this Transaction as carbon-free is false. We decline to

[38] Cal Advocate's Opening Brief at 10 to 11.

[39] SCE Reply Brief at 8.

[40] SCE's Reply Brief at 2.

[41] *Id.* at 22.

overlook SCE's mischaracterization as immaterial. Rather, we focus on the underlying facts and policy.

NRDC cites the Northwest Power and Conservation Council's (NPCC) comments in this proceeding, which say:

> …additional [Pacific Northwest] electricity can be sold to neighboring states or regions without raising emissions. Finding a way to meet more electricity needs from the same source and quantity of power is the same as creating an equivalent quantity of zero-carbon kilowatt-hours, regardless of the type of power plant involved.[42]

We disagree. It is not true that "an equivalent quantity of zero-carbon kilowatt-hours" can be generated "regardless of the type of power plant used." This view is contradicted by CARB's GHG rule for BPA's ACS power, which has a non-zero emission factor. Moreover, as fully explained above, we reject the notion that energy efficiency can simply be transferred.

On the other hand, it may be possible that stakeholders can work out a solution with CARB. If so, perhaps a future transaction with BPA can actually be carbon-free (e.g., sourced from a specific hydroelectric powerplant) in accordance with California law.

Until this issue is successfully addressed by CARB and other entities, however, we do not agree with SCE that the characterization of the Transaction as carbon-free is a "minor detail." We reject this characterization because calling a transaction with a non-zero emission factor carbon-free has both policy and legal implications. It is poor public policy to call something it is not, or blindly accept it is something it is not. It is contrary to law to count a GHG-emitting resource as carbon-free for the purposes of SB 100.

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[42] NRDC's Rebuttal Testimony (Exhibit NRDC-02) at 2.

No party disputes that BPA's ACS power has a low-carbon footprint, or that BPA's energy efficiency resource is carbon-free. The issue here is simply that BPA's ACS power is not carbon-free, and energy efficiency cannot be transferred as proposed in the Transaction. SCE tries to rehabilitate the false claim that this Transaction is carbon-free by citing NRDC's argument of converting Pacific Northwest' energy efficiency into long-term power transfers.[43] Pacific Northwest load is served first, however, and surplus is served last. Surplus might be created by a demand reduction resulting from energy efficiency installed in the region, but the surplus is generated by resources last in the loading order. Those include GHG-emitting market purchases. SCE cannot convert low-carbon power to zero-carbon power by calling it something it is not.

Despite BPA's certification associating its ACS power with incremental energy efficiency savings, under the current California GHG rules CARB does not treat BPA ACS power as an energy efficiency resource, nor does it assign a zero-emission factor for this Transaction. We agree with Cal Advocates that by BPA's own admissions, even if BPA can demonstrate that the surplus power is a result of BPA's incremental energy efficiency savings, neither BPA nor SCE are able to guarantee the Transaction is carbon-free hydroelectric power because BPA surplus power sales are not attributed to individual resources.[44] If the concept of zero-carbon transactions associated with out-of-state energy efficiency resources has merit, we encourage SCE and parties to work closely with CARB

[43] SCE's Reply Brief at 12.

[44] Cal Advocates' Opening Brief at 29.

and others to find solutions that could overcome this barrier under California law.[45]

5.1.3. The Transaction is not Unique

Under BPA's statutory restrictions, BPA cannot guarantee delivery of surplus power, should BPA need the resource to serve its own customers. We find that the Contract provides standard BPA surplus energy and is not unique as SCE claims.

NRDC points out that long-term electricity transfers between BPA and California investor-owned utilities have faced a legal obstacle rooted in a constraint on the sale of federal hydropower.[46] The constraint is that BPA's sales of surplus firm energy outside the Pacific Northwest must be subject to reduction or termination upon 60 days' notice if the energy is needed by BPA to serve its Pacific Northwest customers. SCE claims that SCE and BPA have solved the legal obstacle by structuring the Contract as surplus firm power underpinned by incremental energy efficiency.[47] SCE is mistaken.

BPA is governed by the *Bonneville Project Act* (1937);[48] the *Pacific Northwest Consumer Power Preference Act* (1964) (Preference Act),[49] and the *Pacific Northwest*

[45] NRDC states, "CARB has not yet analyzed any inter[-]regional energy efficiency resource transfer comparable to this one…, which is unsurprising since none previously has been proposed." (NRDC Rebuttal Testimony (Exhibit NRDC-02) at 3)

[46] NRDC Opening Testimony (Exhibit NRDC-01) at 3-4.

[47] SCE Opening Brief at 16.

[48] Which requires BPA to give priority to public bodies and cooperatives in the sale of power. (16 U.S. Code § 832c)

[49] Which provides that Pacific Northwest customers and utilities have a right of first refusal for any surplus power marketed by BPA. (16 U.S. Code §§ 837 *et seq*.)

Electric Power Planning and Conservation Act (1980) (Northwest Power Act).[50] Cal Advocates correctly points out that the statutes, read together, significantly limit BPA's ability to freely market and sell its power to non-Pacific Northwest utilities—as contemplated in the Transaction.[51] For example, the Preference Act prohibits the sale of electricity from Pacific Northwest federal hydropower plants for use outside the region by a non-Federal utility unless the sale constitutes "surplus energy" or "surplus peaking capacity." It specifically requires that any contract for surplus hydroelectric energy sales shall provide a 60-day energy cancellation notice and will not deliver some or all of the contracted energy if the surplus energy is needed to serve Pacific Northwest customers.[52]

SCE acknowledges that the Contract is a relatively straightforward purchase and sale of BPA's surplus, firm energy, pursuant to BPA's tariffs and the federal law, and uses a standard WSPP contract form.[53] As TURN and Cal Advocate correctly points out, the Contract includes a provision consistent with this statutory 60 day cancellation requirement.[54] This means that the Contract cannot guarantee the delivery of the around-the-clock surplus power, should BPA need the power to serve its own customers, whether it is or is not "underpinned by incremental energy efficiency." Rather, what BPA is selling, and what SCE is buying, is normal BPA surplus subject to regular statutory

[50] Which reiterates the applicable provisions for the sale of surplus power. (16 U.S. Code §§ 839 *et seq*.)

[51] Cal Advocates' Opening Brief at 24 and 25.

[52] 16 U.S. Code §§ 837 *et seq*. codified by Public Law 88-552 (August 31, 1964).

[53] SCE Opening Brief at 15.

[54] TURN's Opening Brief at 4. Also, Cal Advocates' Opening Brief at 26.

provisions. The Transaction is not unique, contrary to SCE and NRDC claims otherwise.

What might make the contract unique is if BPA will commit to putting in replacement energy efficiency or other resources within 60 days, so that no power needs to be withdrawn under the Preference Act, if the 60-day withdrawal notice would otherwise be given. That is not the case here.

We conclude that, contrary to SCE's claim, the Transaction has not overcome BPA's legal barrier despite its intention otherwise. Rather, what BPA is selling, and what SCE is buying, is normal BPA surplus energy subject to regular statutory provisions.

5.1.4. The Transaction Provides no System Reliability Benefits

SCE asserts that while the Transaction is not needed for reliability or energy efficiency, it is a preferred resource to prove a concept for public policy reasons.[55] SCE further asserts that simply because the Contract does not meet reliability or energy efficiency needs, it does not mean that the Contract is not needed As explained above, we reject this transaction as a preferred resource needed to prove a concept for public policy reasons. We are not convinced this Transaction provides system reliability benefits but think it is worthwhile to discuss RA here to provide a context for possible future transactions. We consider two reasons why we are not convinced that this Transaction provides system reliability benefits.

First, the Transaction does not provide a RA capacity value to SCE. To count toward SCE RA requirements, SCE would be procuring energy, at a premium price, that would need to be paired with an import allocation, and

[55] SCE's Rebuttal Testimony (Exhibit SCE-02) at 3.

conform to the Commission's RA import rules. It is not clear how and if SCE will utilize the Transaction's energy sale to meet a system RA need. Second, the contract does not provide energy efficiency reductions that would reduce SCE's load forecast and provide an avoided RA value to SCE. Therefore, the Transaction has no avoided RA value. Both SCE's and NRDC's arguments miss the point about the valuation of resources described herein. If a resource meets SCE's RA obligation, it has RA value. If it meets energy efficiency goals, it reduces SCE's RA obligation by modifying (reducing) load. For example, SCE's Renewable Portfolio Standard contracts and its in-state energy efficiency resources provide RA value. We agree with Cal Advocates that since the Transaction is not needed to meet either SCE's reliability obligations or energy efficiency targets, it has no direct RA value to SCE's ratepayers. We encourage SCE to work closely with Energy Division's RA team when exploring future transactions to ensure that the procured energy provides system reliability benefits that justify a premium price.

In addition, it is uncertain, without coordination with the Commission's Integrated Resource Plan (IRP) proceeding, whether similar transactions at a large scale would benefit or have adverse impact on the reliability of California's electricity system. California's grid is facing new challenges from overgeneration due to increased solar production. Adding substantial base load resources may increase risks to system reliability due to overgeneration.

While surplus power from Pacific Northwest with a low-carbon footprint may help to reduce GHG emission in California, it is important to ensure similar transactions at a large scale will not have adverse impact on California's system reliability. The Commission studies the impact or benefits of imported resources in the IRP proceedings. Should SCE wish to develop similar transactions in the

future, we recommend that SCE works with the Energy Division's IRP team to determine the appropriate characterization when filing its integrated resource plans. We encourage SCE to bring this information into the IRP proceeding where total impacts may be studied.

SCE proposed to study these and other effects of the Transaction over the course of the Contract and report its findings at the end of the Contract. SCE did not ask for any funds in this Application for such study but said such work could be accomplished within existing authorized revenue requirements.[56]

We reject the Transaction on the basis of both policy and cost, and thereby similarly reject the proposed study. However, we do not reject the idea of further study. SCE and others are encouraged to study the benefits of increased out-of-state low or GHG-free electricity with RA value and bring relevant information and contracts to the Commission for assessment, particularly in the context of the IRP proceeding.

5.1.5. The Transaction is Likely Resource Shuffling

TURN and Cal Advocates contend that the Transaction is an example of resource shuffling.[57] We are concerned that this is very likely to be true.

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[56] "SCE expects to use existing resources to conduct these M&V-related activities, as well as the activities associated with the additional learnings for this proof-of-concept Transaction discussed in SCE's testimony. As such, there are no incremental costs associated with these activities...Upon approval of the proof-of-concept Transaction, SCE will develop a workplan and welcomes stakeholder input." (SCE's Surrebuttal Testimony (Exhibit SCE-03) at 7 and 8)

[57] SB100 (DeLeon, 2018) as codified in relevant part in Pub. Util. Code § 454.53(a), "It is the policy of the state that eligible renewable energy resources and zero-carbon resources supply 100 percent of all retail sales of electricity to California end-use customers and 100 percent of electricity procured to serve all state agencies by December 31, 2045. The achievement of this policy for California shall not increase carbon emissions elsewhere in the western grid and shall not allow resource shuffling. The commission and Energy Commission, in consultation with the State Air Resources Board, shall take steps to ensure that a transition to a zero-carbon electric

SCE and NRDC assert that energy efficiency resources are, by definition, GHG free. Assuming this is true, the fact that the Transaction has a CARB non-zero emissions factor directly proves resource shuffling. That is, whether BPA has or has not installed 5 aMW of energy efficiency in the Pacific Northwest, the 5aMW of the Transaction would not be generated absent the surplus firm energy sale to SCE, and there would be less GHGs emitted in the Pacific Northwest.

If SCE needed and produced the 5 aMW of energy efficiency resources within SCE's own territory, there would be no GHGs emitted in California associated with the 5 aMW. Alternatively, if SCE needed energy and purchased 5 aMW from BPA, the GHGs emitted in the Pacific Northwest by SCE purchasing 5 aMW (in place of SCE's own zero GHG energy efficiency resources in SCE's territory) appears to be resource shuffling. It demonstrates resource shuffling whether or not BPA installs 5 aMW of energy efficiency because energy efficiency is first in the loading order and is used first in the region. Whatever is last in the loading order is what would be used to serve 5 aMW to SCE. The CARB non-zero emission factor for BPA ACS power demonstrates that the last resources in the loading order are not carbon-free. Because this Transaction is not the sale of net energy efficiency (due to the non-zero CARB emission factor), TURN's witness explains it this way:

> If BPA is not in fact selling "net EE savings" to SCE, the Contract clearly constitutes an example of resource shuffling, because BPA will need to backfill purported "carbon free"

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system for the State of California does not cause or contribute to greenhouse gas emissions increases elsewhere in the western grid, and is undertaken in a manner consistent with clause 3 of Section 8 of Article I of the United States Constitution. The commission, the Energy Commission, the State Air Resources Board, and all other state agencies shall incorporate this policy into all relevant planning."

> energy sold to SCE with incremental dispatches of other resources – like fossil-fired resources – elsewhere in the WECC [Western Electricity Coordinating Council].[58]

If transactions such as this are contemplated in the future, it is important to give further consideration to the resource shuffling issue. TURN states it expects the resource shuffling issue to be addressed by the Commission in the IRP proceeding.[59] Both TURN and Cal Advocates recommend that SCE should be required to address the Transaction in the IRP proceeding.[60] SCE argues that while SCE can seek approval of procurement through the IRP, there is no requirement that all procurement must be authorized through the IRP process. This is true, but the issue deserves consideration in a forum where all California utilities and others have a chance to participate.[61] If SCE and BPA wish to further explore other GHG reduction products in the future, it is important that SCE continues working with the IRP proceeding to define resource shuffling and how it should be applied in long-term resource planning. We encourage SCE to coordinate with Energy Division's IRP, RA, and EE teams, as well as CARB and other entities.

[58] TURN Rebuttal Testimony (Exhibit TURN-01) at 11.

[59] Rulemaking 20-05-003.

[60] TURN's Opening Brief at 8 to 10 and Cal Advocates' Opening Brief at 9, 15 to 16.

[61] Other California utilities, even if aware of this proceeding, are not active parties. Neither is CARB, the California Energy Commission, the CAISO, or other California agencies and corporations with a direct interest and from whom we might seek material and relevant information.

5.2. Cost Reasonableness

5.2.1. Costs Associated with This Application are not Reasonable

For the following reasons, we find that the costs associated with approving this Application are too high and are not justified by the uncertain policy benefits.

As explained above (Section 2.1.1), the first two years of the Transaction are not before the Commission for review and approval in this proceeding. Year 1 energy has been delivered, and Year 2 energy will be delivered through January 31, 2021. Authority to purchase energy in Years 1 and 2 was not sought by SCE and is not before the Commission here. The energy costs for Years 1 and 2 have been, and are being, reviewed in SCE's ERRA proceedings.

Nonetheless, the fundamental issue presented by SCE is whether to approve the extension of the Contract. The effect of doing so will not affect delivery of energy in Years 1 and 2 but will extend the delivery of energy by one year, to Year 3. The cost for 5 aMW of energy delivered in Year 3 is the annual fee charges for Years 1 and 2 (which are charged only if we approve the application), plus the Reference Price (the energy price and the annual fee) charges in Year 3. While SCE sought and received confidential treatment of some costs, we estimate the costs of approving this Application using publicly available data.

The annual fee for the first two years is estimated to be $3.12 million (assuming no curtailment due to BPA giving 60 days' notice to reduce or terminate the energy).[62] The Reference Price charge for Year 3 is estimated to be

[62] The annual fee is in the public version of SCE's Direct Testimony (Exhibit SCE-01) at 6. The Year 1 annual fee is $34.65/MWh, which for Year 1 totals $1.52 million ($34.65/MWh x 5 MW x

at least $2.98 million (again assuming no curtailments).[63] Approving the application means ratepayers will incur an obligation of at least $6.10 million ($3.12 million plus $2.98 million) for 5 aMW delivered in Year 3. That is a cost of at least $139/MWh[64]. This far exceeds SCE's 2020 estimated EE cost of $71.62/MWh for a resource that has no RA value.[65]

In support of the Contract prices, SCE asserts the energy price portion is reasonable because it is priced at market value. Cal Advocates points out that it is actually a "bilaterally negotiated" price.[66] A market price that would be based on a competitive market is one where all buyers and all sellers are price takers (*i.e.,* no buyer or seller can influence the price). This is how the CAISO market is designed, but that is not how the market price in this contract is derived. SCE failed to provide any market data or other corroborating information to establish that the bilaterally negotiated price accurately reflects the market or is otherwise

365 Days x 24 Hours). The Year 2 annual fee is $36.55/MWh, which for Year 2 (a leap year) totals $1.60 million ($36.55/MWh x 5 MW x 366 Days x 24 Hours). The sum of the two years is $3.12 million ($1.52 million plus $1.60 million).

[63] The Reference Price is the sum of four parts: (1) the EE Program Cost, (2) the PF Equivalent Rate, (3) the Transmission Cost, and (4) the ACS Value. (See Section 2.1.1 which describes the Transaction.) The first three elements are in the public version of SCE's Direct Testimony (Exhibit SCE-01 at 7 to 8). The EE Program Cost is fixed and equal to $22.75/MWh throughout the three years of the contract term; the current PF Equivalent Rate is $40.33/MWh; and the current Transmission Cost is $4.87/MWh. The ACS value is confidential. The Reference Price for Year 3 summing the known elements (excluding the ACS Value) is $67.95/MWH (22.75/MWh + $40.33/MWh + $4.87/MWh = $67.95/MWh). The Reference Price charge for Year 3 using the known elements is $2.98 million ($67.95/MWh X 5 MW x 365 Days x 24 Hours). No party testified that the ACS value is zero. That means the Reference Price for Year 3 is at least $67.95/MWh, and the total Reference Price charge for Year 3 is at least $2.98 million.

[64] $6.1 Million ÷ (5 MW x 8,760 Hours).

[65] SCE Direct Testimony (Exhibit SCE-01) at 17.

[66] Cal Advocates Opening Brief at 9 citing SCE Opening Brief at 20.

reasonable.[67] We accept that is the agreed price of the two parties but, absent some validating data, are unable here to accept that it is necessarily reasonable, particularly to the extent that it is relevant for Year 3.

The other portion of the total Contract price is the annual fee. The annual fee, according to SCE and NRDC, provides BPA an incentive to invest in energy efficiency, thereby creating a surplus for sales to California. The total annual fees billed in Year 3 are about $108/MWh.[68] Even if this was the only cost (and the energy price was waived), the annual fee for Year 3 is far in excess of either SCE's cost for its own energy efficiency resources.

Furthermore, we are concerned with the recovery of the annual fee for Years 1 and 2. The Contract, which includes additional provisions for the annual fee, was executed well after the start date of Year 1. The Commission has both policy and legal restrictions against retroactive ratemaking.[69] We find that our authorization of the annual fees for Years 1 and 2 would be inconsistent with the

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[67] SCE asserts, for example, that development of the energy price used ACS energy broker quotes and market discovery from other market participants. (Exhibit SCE-01 at 5.) SCE did not provide that data. Neither did SCE provide data on what SCE has paid Pacific Northwest sellers in the past, nor any other data to support its claim.

[68] The total annual fee billed in Year 3 is derived as follow. The annual fee for the first two years is estimated to be $3.12 million. (See prior footnote.) The annual fee for Year 3 (using the Year 2 annual fee of $36.55/MWh as a proxy for Year 3) is estimated to be $1.60 million. ($1.60 million = $36.55/MWh x 5 MW x 365 days x 24 hours.) The incentive for conservation investment—i.e., the annual fee—is only paid if the Contract is approved. Contract approval costs ratepayers an annual fee for the three years totaling $4.72 million for Year 3 energy of 5 aMW. The result is: $4.72 million/(5 MW x 365 days x 24 hours) = $107.76/MWh.

[69] For example, see Pub. Util. Code § 728: "Whenever the commission, after a hearing, finds that the rates or classifications, demanded, observed, charged, or collected by any public utility for or in connection with any service, product, or commodity, or the rules, practices, or contracts affecting such rates or classifications are insufficient, unlawful, unjust, unreasonable, discriminatory, or preferential, the commission shall determine and fix, by order, the just, reasonable, or sufficient rates, classifications, rules, practices, or contracts to be *thereafter* observed and in force."[Emphasis added]

Commission's ratemaking policy and law as the Contract has already been operational.

5.2.2. GHG Costs are not Included

SCE also incurs GHG emission compliance costs associated with dispatch of the Contract resource in the CAISO market. SCE estimates those additional cost to be $9,000 for Year 3, based on an emissions factor of 0.00159 MT/MWh.[70] TURN estimates those compliance costs could be as high as $63,311 for Year 3, based on the 2012 emissions factor of 0.0856 MT/MWh.[71] Nonetheless, despite the cost, the Applicant's failure to address GHG compliance costs means the true price of the Transaction is understated.

5.2.3. Future Transactions Should Provide Mutual Benefits

As explained above and in this section, we do not find the uncertain public policy benefits of this Transaction worth its very high cost.

BPA, Pacific Northwest utilities, and California utilities already have substantial incentive to make trades when they are mutually beneficial, and have been doing so since the 1960s. BPA and other Pacific Northwest utilities can, and already do, sell substantial amounts of energy to California that is sourced from low or zero GHG-emitting resources. No material impediments are identified in this record that prevent continuing to use, or expand, the existing market when mutually beneficial.

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[70] SCE Surrebuttal Testimony (Exhibit SCE-03 at 5). GHG emission compliance costs for Years 1 and 2 are recovered via ERRA and are not an incremental cost dependent upon approval of this application. GHG emission compliance costs for Year 3 will or will not be incurred based on approval or denial of this application.

[71] TURN Opening Brief at 26, citing TURN Rebuttal Testimony (Exhibit TURN-02) at 14.

SCE is concerned that rejection of the Application would discourage efforts to seek innovative carbon reduction approaches for the market.[72] We think otherwise. California is committed to the goal established in SB 100 of achieving 100 percent zero-carbon energy by 2045, thereby creating a substantial potential market to purchase cost-effective resources. BPA and other Pacific Northwest utilities have access to zero GHG energy and a substantial incentive in making cost-effective sales. Solutions may be found by either seller, buyer, or both without our approval of this Transaction.

For example, to the extent it is an impediment, BPA might resolve its decoupling ratemaking issue as California did many years ago. Alternatively, BPA and other Pacific Northwest utilities might seek ways to sell energy from specific sources that are carbon-free, certified as such by CARB without resulting in resource shuffling, and not subject to a 60-day withdrawal notice. These two actions alone may solve the problem. California may also be able to resolve other impediments from the buyer's perspective.

Whether a mutually beneficial result can be found depends upon many factors. These include, but are not limited to, the cost to develop the resource, what is sold (energy, capacity, other; baseload, peaking, other), price, duration, amount of RA benefits for California utilities (if any), reduction or termination terms (*e.g.,* 60 day notice to withdraw energy), payment of GHG compliance costs (if any) and which party is responsible, verification of source and emissions, verification that there is no resource shuffling, certification by CARB that the transaction has a zero emissions factor, and other terms and conditions.

[72] SCE-02 at 6.

The record shows that for about 30 years staff of the California Energy Commission and NRDC have pursed the concept of energy efficiency resource development in the Pacific Northwest for sale to California. As both regions currently seek GHG free electricity with increasing urgency, both sides have an increasing interest in this resource and making transactions when mutually beneficial. SCE states with or without approval of this Transaction both BPA and SCE will continue to explore the possibilities.[73]

Thus, to the extent this concept has merit, there is already substantial incentive to address and solve any impediments. We are not convinced this transaction substantially adds to that incentive. In particular, we reject burdening SCE ratepayers with estimated cost of $6.10 million, or $139/MWh (far above alternative costs and benefits) when substantial incentives already exist to address and resolve impediments, if any, to a new or expanded market.

6. Conclusion

In conclusion, this decision does not agree that the Transaction is "an inter-regional energy efficiency transfer" as presented by SCE and NRDC. Both SCE and NRDC emphasize the underpinning energy efficiency resources allegedly made available for the Transaction as the basis for the Application's representation of "inter-regional energy efficiency transfer." We find that such representation is inaccurate, and the proposed "proof of concept" is misleading. The Transaction is not a transfer of energy efficiency and cannot be. The Contract source is standard surplus energy from BPA's ACS power with a low (but not zero) emission factor assigned by CARB. The Transaction is not carbon-free under the California law. The surplus energy provided under the Contract

[73] SCE's Surrebuttal Testimony (SCE-04) at 7. SCE expects to use existing resources to conduct evaluation-related activities associated with BPA's EE program results.

is not unique. The Contract does not count toward meeting either SCE's energy efficiency goals or system reliability obligations, so it does not have any RA value. We are also concerned that the Transaction may result in resource shuffling.

Even if the proposed "inter-regional energy efficiency transfer" was a valid "proof of concept," which this decision does not accept, we determine that the cost associated with this Application is too high. The Application is not filed on the basis that the Contract is cost-effective as comparing to in-state energy efficiency resources or other low-carbon solutions, nor it is filed on the basis that the Contract is needed in meeting SCE's RA compliance obligations or energy efficiency goals. This decision determines that the Transaction does not produce sufficient policy benefits to justify the high cost. Additionally, authorization of the annual fees for Years 1 and 2 would also be against the Commission's ratemaking policy. For these reasons, we deny the Application.

If SCE wishes to develop other zero- or low-carbon transactions with BPA that provide mutual benefits to both SCE's and BPA's customers, we encourage SCE to collaborate with Energy Division's EE, RA, and IRP teams, other utilities, as well as CARB and other entities to address the issues identified in this decision. This is also to ensure future transactions are consistent with the Commission's resource planning and procurement policies across the utilities and state law.

7. Categorization and Need for Hearings

The Scoping Memo confirms the Commission's preliminary determination in Resolution ALJ 176-3448 that this is a ratesetting proceeding and evidentiary hearings are required. Accordingly, *ex parte* communications are restricted and must be reported pursuant to Article 8 of the Commission's Rules of Practice and

Procedure (Rules). As discussed in Section 1, parties had agreed to waive evidentiary hearings. This decision resolves all issues in this proceeding. Therefore, no hearings are needed.

8. Comments on Proposed Decision

The proposed decision of ALJ Liang-Uejio in this matter was mailed to the parties in accordance with Section 311 of the Pub. Util. Code and comments were allowed under Rule 14.3 of the Rules. Comments were filed on _____ and reply comments were filed on _____.

9. Assignment of Proceeding

Genevieve Shiroma is the assigned Commissioner and Scarlett Liang-Uejio is the assigned ALJ in this proceeding.

Findings of Fact

1. SCE entered into a standard power purchase contract to buy 5 aMW annually from BPA for two years, and seeks Commission approval to extend their contract into a third year.
2. The initial term of the Contract (Year 1 and Year 2) with energy price only is not subject to this Application. The Contract period for Year 1 is February 1, 2019 to January 31, 2020 and February 1, 2020 to January 31, 2021 for Year 2.
3. If the Application is approved, the Contract will be extended to an addition year (Year 3) and SCE will pay the annual fee for all three years, in additional to the 3rd year energy price. The Contract period for Year 3 is February 1, 2021 to January 31, 2022.
4. The energy prices for all three years were negotiated between SCE and BPA under the bilateral agreement and are confidential.

5. The annual fee is the Reference Price minus the energy price. The annual fee for Year 1 is $34.65/MWh and $36.55/MWh for Year 2. The Year 3 annual fee will be determined based on the Year 3 Reference Price.

6. California's energy efficiency measures have various hourly and monthly load profiles, not flat.

7. The Contract is a standard WSPP Agreement, which is routinely used by SCE and other municipal/public utilities across the western energy markets. The contract source is BPA's power.

8. The power BPA sells is not attributed to individual resources. BPA's ACS power has a certain amount of carbon emissions attributed to it. BPA's 2020 emission factor assigned by CARB is 0.0117 MT/MWh.

9. Energy Efficiency is carbon-free. This Transaction carries a non-zero carbon emission factor; therefore, it is not carbon-free.

10. The Transaction does not count toward SCE's in state energy efficiency goals, nor does it count towards meeting its RA compliance obligation.

11. SCE also incurs GHG emission compliance costs associated with dispatch of the Contract resource in the CAISO market.

Conclusions of Law

1. The Transaction, as structured, does not result in transfer of energy efficiency into California. SCE's representation of the Transaction as "inter-regional energy efficiency transfer" is misleading. The Transaction cannot be an energy efficiency transfer. The Transaction is to test California's policy on procurement of surplus power from Pacific Northwest at a premium price to incentivize the development of Pacific Northwest energy efficiency programs.

2. BPA imported power to California is subject to California's GHG emission rules under CARB.

3. The Bonneville Project Act (1937); the Pacific Northwest Consumer Power Preference Act (1964) (Preference Act), and the Pacific Northwest Electric Power Planning and Conservation Act (1980) limit BPA's ability to sell surplus power outside the region to non-federal utilities. The federal law specifically requires that any contract for surplus hydroelectric energy sales shall provide a 60-day energy cancellation notice and will not deliver the contracted energy if the surplus energy is needed to serve Pacific Northwest customers.

4. Under BPA's statutory restrictions, BPA cannot guarantee delivery of surplus power under the Contract, should it need to serve its own customers.

5. The Transaction is not unique and does not warrant the proposed high premium.

6. There are economic disincentives for BPA to achieve incremental energy efficiency savings under its current ratemaking policy. BPA has not been compensated for its past energy efficiency efforts because BPA's revenue is not decoupled from its power sales.

7. The Transaction is not needed to meet SCE's in state energy efficiency goals and system reliability obligations.

8. The Transaction price is understated. There are additional GHG costs associated with the Transaction.

9. The Transaction does not produce sufficient policy benefits and the total costs associated with this Application are not justified.

10. It is inconsistent with the Commission's ratemaking policy to authorize the annual fee for the initial term (Years 1 and 2).

11. The Application should be denied.

12. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. Application 19-10-001 filed by Southern California Edison Company on October 1, 2019 is denied.
2. Application 19-10-001 is closed.

This order is effective today.

Dated _____, at San Francisco, California

APPENDIX A

APPENDIX A

Abbreviations, Acronyms, and Definitions

A.	Application
ACS	Asset Controlling Supplier
Annual Fee	An additional transaction fee, which it is called by SCE as the Clean Power Fee and an annual premium for the full term of the Contract if the Contract's initial term is extended for an additional year.
ALJ	Administrative Law Judge
AReM	Alliance for Retail Energy Markets
aMW	Average Megawatts It is a measure of energy equivalent to one megawatt of electricity provided around the clock over a year (8,760 MWh)
BPA	Bonneville Power Administration
CAISO	California Independent System Operator
Cal Advocates	The Commission's Public Advocates Office
CalChoice	California Choice Energy Authority
CARB	California Air Resource Board
CCA	Community Choice Aggregator
Contract	Confirmation Agreement between BPA and SCE in accordance with the WSPP Agreement, as amended (Exhibit SCE-01-C, Appendix A).
CPA	Clean Power Alliance of Southern California
Contract	SCE's contract with Bonneville Power Administration
DACC	Direct Access Customer Coalition
EE	Energy Efficiency
ERRA	Energy Resource Recovery Account
ESP	Energy Service Provider
FERC	Federal Energy Regulatory Commission

GHG	Greenhouse Gas
Initial Term of the Contract	Year 1: February 1, 2019 to January 31, 2020 Year 2: February 1, 2020 to January 31, 2021
IRP	Integrated Resource Plan
IOU	Investor Owned Utility
JCMS	Joint Case Management Statement
NRDC	Natural Resources Defense Council
MW	Megawatts
MWh	Megawatt Hours
RA	Resource Adequacy The Commission adopted a RA policy framework (Pub. Util. Code § 380) in 2004 in order to ensure the reliability of electric service in California. The Commission established RA obligations applicable to all LSEs within the Commission's jurisdiction, including IOUs, ESPs, and CCAs. The Commission's RA program now contains three distinct requirements: System RA requirements (effective June 1, 2006), Local RA requirements (effective January 1, 2007) and Flexible RA requirements (effective January 1, 2015). (https://www.cpuc.ca.gov/General.aspx?id=6307)
SB	Senate Bill
SCE	Southern California Edison Company
Scoping Memo	The Assigned Commissioner's Scoping Memo and Ruling
Transaction	Purchase of five megawatts of electric power from BPA made available through incremental energy efficiency savings in BPA's service area
TURN	The Utility Reform Network
WSPP	Western Systems Power Pool

(END OF APPENDIX A)